IN THE

# Supreme Court of the United States

OCTOBER TERM, 1978

## No. 83, Original

STATE OF MARYLAND,
STATE OF ILLINOIS,
STATE OF INDIANA,
COMMONWEALTH OF MASSACHUSETTS,
STATE OF MICHIGAN,
STATE OF NEW YORK,
STATE OF RHODE ISLAND AND
PROVIDENCE PLANTATIONS,
STATE OF WISCONSIN,

*Plaintiffs,*

v.

STATE OF LOUISIANA,

*Defendant.*

## ANSWER TO MOTION FOR APPOINTMENT OF A SPECIAL MASTER


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## ANSWER TO MOTION FOR APPOINTMENT OF A SPECIAL MASTER

The State of Maryland, the State of Illinois, the State of Indiana, the Commonwealth of Massachusetts, the State of Michigan, the State of New York, the State of Rhode Island and Providence Plantations, and the State of Wisconsin ("the plaintiff states"), by their attorneys, in answer to the motion for the appointment of a special master, state that the motion is premature and should be denied for the following reasons:

1. The plaintiff states filed a motion for judgment on the pleadings and supporting brief on September 18, 1979.

2. The issues raised by the motion of the plaintiff states are purely legal and thus may be decided appropriately on the basis of the pleadings. *See, e.g., Douglas v. Seacoast Products,* 431 U.S. 265, 271-72 (1977); *Philadelphia v. New Jersey,* 430 U.S. 141 (1977); *United States v. Louisiana,* 363 U.S. 1 (1960) (all indicating that the determination of a supremacy clause issue presents a purely legal question); *Boston Stock Exchange v. State Tax Commission,* 429 U.S. 318 (1977) (commerce clause violation found even in the absence of a record).

3. The urgency of the issues raised by this case; the enormous burden that Louisiana's First Use Tax places on the plaintiff states and their citizens — in excess of one-quarter billion dollars annually — which is not adequately addressed by the possibility of refunds, *FPC v. Tennessee Gas Transmission Company,* 371 U.S. 145, 154-55 (1962); and the possible spectre of interim retaliatory state taxation in response to Louisiana's First Use Tax, all require that this Court expeditiously decide this case without the appointment of a special master. *See South Carolina v. Katzenbach,* 383 U.S. 301, 307 (1966) (dispensing with the appointment of a master in an original jurisdiction case to resolve important questions under the Voting Rights Act of 1965).

WHEREFORE, having fully answered the motion for the appointment of a special master, the plaintiff states urge that the motion is premature and should be denied

and that oral argument be set on the plaintiff states' motion for judgment on the pleadings.

Respectfully submitted,

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